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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/803,568	03/09/2001	Kisaburo Takahashi	9281-3935	6858

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EXAMINER
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FISHMAN, MARINA

ART UNIT	PAPER NUMBER
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2832

DATE MAILED: 12/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/803,568

Applicant(s)

TAKAHASHI, KISABURO

Examiner

Marina Fishman

Art Unit

2832

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4,6-11 and 13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-11,13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***General status***

1. This is a Final Action on the Merits. Claims 1 – 4, 6 – 11 and 13 are pending in the case and are being examined.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 – 4, 6 – 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sasaki [US 6,271,488] in view of Painter et al. [US 5,669,485] and Admitted Prior Art [instant Figure 20].

Sasaki discloses a switch mechanism [Figures 1-11] comprising a first operating member [11] for operating a first rotary electric part [17], the first operating member being rotatable. The operating member, is provided with an operating portion [14a] for performing operation in a direction A, orthogonal to the axial direction B [Figures 4 - 6].

Regarding Claims 1 and 7, Sasaki suggests use of plurality of operating members [Column 1, lines 27 – 30], however does not disclose a second operating member. Painter et al. disclose [Figure 1] two operating members [100] with switches [111], position close to each other in one and the same plane. It would have been obvious to one having ordinary skill in the art at the time the invention was made to

Regarding Claims 1- 3, 7, 9, 10 Sasaki in view of Painter et al., disclose the instant claimed invention except for the operating members being arranged orthogonal or T-shape, or L-shape. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the operating members arranged orthogonal or T-shape, or L-shape, in order to achieve better operability, since it has been held that rearranging parts of an invention involves only routine skill in the art. [In re Japikse, 86 USPQ 70].

Regarding Claims 1, 6 and 13, Sasaki in view of Painter et al. disclose the instant claimed invention except for the rotary electric part acts as a fulcrum. Admitted Prior Art [instant Figure 20], discloses operating member [57] associated with rotary electric part [50] and the rotary electric part acts as fulcrum, when the operating member is pushed in a direction orthogonal to the axial direction of the operating member. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to modify the switch of Sasaki in view of Painter et al. and make rotary electric part to act acts as a fulcrum as suggested by Admitted Prior Art, so as to have tilting motion for the operating member.

Regarding Claims 4 and 11 Sasaki discloses, knurled portion [Figure 4].

Regarding Claim 8 Sasaki discloses display [4, Figure 1] and the operating member is positioned close to the display.

#### ***Response to Arguments***

4. Applicant's arguments filed 10/21/2004 have been fully considered but they are not persuasive.

Applicant has argued that Sasaki teaches away from having a plurality of operating members. Examiner respectfully disagrees. The text in Background of the Invention simply suggest the state of the art prior to invention of Sasaki [US 6,271,488] and in column 1, lines 45-55, Sasaki [US 6,271,488] states that "accordingly, the present invention has an object to overcome the above-mentioned drawbacks of the prior-art by providing an improved and novel switch mechanism operable in three different directions, permitting to perform many functions", hence the Sasaki reference does suggest use of a single multi-functional operating member to obtain a number of functions by a single operating member. Sasaki did not teach away from providing two operating members. In addition, Examiner did not use Sasaki for providing second operating member; the Examiner used Painter et al. [US 5,669,485] for providing teaching of second operating member.

Regarding the applicant's argument related to the indicia. This argument is not persuasive, as the orientation of indicia is not part of the claim limitations and also, one skilled in the art, would provide proper orientation for indicia, should the second operating member is provided at an orthogonal orientation to the first operating member.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Fishman whose telephone number is 571-272-1991. The examiner can normally be reached on 7-5 M-T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on 571-272-1990. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marina Fishman  
November 22, 2004

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LINCOLN DONOVAN  
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